VUKASOVICH DRILLING CO.

IBLA 83-322 Decided September 18, 1984

Appeal from decision of the Utah State Office, Bureau of Land Management, denying request for consolidation of oil and gas leases U-20563 and U-20563-A through U-20563-H.

Affirmed.

1. Oil and Gas Leases: Generally

Departmental regulation 43 CFR 3105.6 (1982) permits consolidation of leases in the interest of conservation. Where, however, some leases sought by appellant to be consolidated were located in a known geologic structure, and some were not, the Bureau of Land Management properly denied consolidation.

APPEARANCES: James A. Murphy, Esq., Salt Lake City, Utah, for appellant.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

Vukasovich Drilling Company appeals from a decision dated December 22, 1982, by the Utah State Office, Bureau of Land Management (BLM), denying the application by appellant for consolidation of oil and gas leases U-20563 and U-20563-A through U-20563-H. The leases are located in Grand County, Utah, T. 21 S., R. 23 E., Salt Lake Meridian. They were originally issued as a single, noncompetitive lease, but assignments by the original lessee divided the original lease into 8 tracts, varying in extent from 80 to 320 acres, located in secs. 4, 6, 7, 17, 18, and 20 of township 21. Appellant subsequently acquired all the parcels, and thus reunited ownership of the original lease. However, six of the eight leases are now within a known geologic structure (KGS). On October 28, 1982, appellant requested consolidation of these eight leases, all of which were about to expire December 31, 1982, stating that it wanted "to drill at least one well before winter rather than having to drill all of them."

Minerals Management Service (MMS) objected to appellant's application for consolidation for the stated reasons that the eight leases are not contiguous, some of the leases are within a KGS, and consolidation would reduce competition and could defer development.

Citing 43 CFR 3105.6 (1982) and the stated MMS objections, BLM denied appellant's request. 1/ The regulation relied upon provides:

> Consolidation of leases may be approved if it is determined that there is sufficient justification. Each application will be considered on its own merits. Ordinarily, leases to different lessees for different terms, rental, and royalty rates as well as those containing provisions of law which cannot be reconciled, will not be considered for consolidation. The effective date of the consolidated lease will be that of the oldest lease involved.

In its statement of reasons appellant argues that, as proof of its interest in encouraging development, in the 10 years it has held the leases, Vukasovich has participated in constructing a compressor and gathering system to service the shallow gas wells which comprise most of the production in the area. Vukasovich states that it continues to invest money in the area and asserts that consolidation would be consistent with the economic and orderly development of all eight leases and would not, as BLM infers, discourage development.

[1] The apparent intent of the regulation, 43 CFR 3105.6 (1982), is to permit the Secretary, at his discretion, to permit consolidation of leases when it is in the best interest of conservation to do so. Where a lease divided by partial assignments into separate leases is later sought to be consolidated, the fact that the leases have returned to a single owner is not sufficient, alone, to support consolidation. There must be a showing by the applicant for consolidation that conservation will be served. See generally 2 Law of Federal Oil and Gas Leases § 20.5, at 588.16-588.17 (1983).

Here, where six of the eight leases are now within a KGS, consolidation is not, as MMS points out, in the apparent interest of either conservation or development, nor is it consistent with 43 CFR 3105.6 (1982). The fact that part of the leases are now in a KGS militates against consolidation. The burden to establish that there is a basis, in fact, for consolidation, by a showing that consolidation is in the interests of the United States is upon the applicant. Conoco, Inc., 80 IBLA 161 (1984). Appellant has failed to offer evidence to show how consolidation would serve the interest of conservation in this case.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Franklin D. Arness
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Edward W. Stuebing
Administrative Judge

1/ This regulation was omitted by final rulemaking effective Aug. 22, 1983, from a revision of the regulations published at 43 CFR Part 3100. 48 FR 33648, 33671 (July 22, 1983).